

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HAROLD R. LANIER, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

-against-

BATS EXCHANGE INC., et al.,

Defendants.

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HAROLD R. LANIER, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

-against-

BATS EXCHANGE INC., et al.,

Defendants.

-----X

HAROLD R. LANIER, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiffs,

-against-

BATS EXCHANGE INC., et al.,

Defendants.

-----X

Case No. 14-CV-3745 (KBF)

**STATEMENT PURSUANT TO  
LOCAL RULE 1.6**

Case No. 14-CV-3865 (KBF)

Case No. 14-CV-3866 (KBF)

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CITY OF PROVIDENCE, RHODE ISLAND,  
Individually and on Behalf of All Others Similarly  
Situating,

Case No. 14-CV-2811 (JMF)

Plaintiffs,

-against-

BATS GLOBAL MARKETS, INC., et al.,

Defendants.

-----X  
AMERICAN EUROPEAN INSURANCE COMPANY,  
Individually and on Behalf of All Others Similarly  
Situating,

Case No. 14-CV-3133 (JMF)

Plaintiffs,

-against-

BATS GLOBAL MARKETS, INC., et al.,

Defendants.

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HAREL INSURANCE CO., LTD., Individually and on  
Behalf of All Others Similarly Situated,

Case No. 14-CV-3608 (JMF)

Plaintiffs,

-against-

BATS GLOBAL MARKETS, INC., et al.,

Defendants.  
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JAMES J. FLYNN et al., Individually and on Behalf of  
All Others Similarly Situated,

Case No. 14-CV-4321 (JMF)

Plaintiffs,

-against-

BANK OF AMERICA CORPORATION, et al.,  
Defendants.  
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Pursuant to S.D.N.Y. Civil Local Rule 1.6, counsel for Defendant National Stock Exchange, Inc. writes to inform the Court of the relatedness of the above-captioned seven actions and hereby adopts the Statement Pursuant to Local Rule 1.6 filed on behalf of defendants The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, the Chicago Stock Exchange Inc., the Chicago Board Options Exchange Inc., and C2 Options Exchange, Inc. attached hereto as Exhibit A.

Dated: New York, New York  
July 22, 2014

MCKENNA LONG & ALDRIDGE LLP

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*Attorneys for Defendant National Stock  
Exchange, Inc.*

# **Exhibit A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Related Case Statement

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Full Captions of Later Filed Cases:

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Harold R. Lanier, *individually and on behalf of all others  
similarly situated,*

Plaintiff,

-v-

BATS EXCHANGE INC. et al.,

Defendants.

14-cv-3745 (KBF)

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Harold R. Lanier, *individually and on behalf of all others  
similarly situated,*

Plaintiff,

-v-

BATS EXCHANGE INC. et al.,

Defendants.

14-cv-3865 (KBF)

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Harold R. Lanier, *individually and on behalf of all others  
similarly situated,*

Plaintiff,

-v-

BATS EXCHANGE INC. et al.,

Defendants.

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14-cv-3866 (KBF)

**Full Captions of Earlier Filed Cases:**

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CITY OF PROVIDENCE, RHODE ISLAND, *individually and on behalf of all others similarly situated,*

Plaintiff,

-v-

BATS GLOBAL MARKETS, INC. et al.,

Defendants.

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14-cv-2811 (JMF)

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AMERICAN EUROPEAN INSURANCE COMPANY, *individually and on behalf of all others similarly situated,*

Plaintiff,

-v-

BATS GLOBAL MARKETS, INC. et al.,

Defendants.

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14-cv-3133 (JMF)

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HAREL INSURANCE CO, LTD., *individually and on behalf of all others similarly situated,*

Plaintiff,

-v-

BATS GLOBAL MARKETS, INC. et al.,

Defendants.

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14-cv-3608 (JMF)

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JAMES J. FLYNN et al., *individually and on behalf of all others similarly situated,*

Plaintiffs,

-v-

BANK OF AMERICA CORPORATION et al.,

Defendants.

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14-cv-4321 (JMF)

**Statement Pursuant to Local Rule 1.6**

Pursuant to S.D.N.Y. Civil Local Rule 1.6, we write on behalf of defendants The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, Chicago Stock Exchange Inc., Chicago Board Options Exchange Inc., and C2 Options Exchange, Inc. to inform the Court of several recently-filed class action complaints.<sup>1</sup>

***Procedural Background.***

The following putative class action complaints have all recently been filed in this Court, and are all currently pending.

The first case filed was *City of Providence, Rhode Island, et al. v. BATS Global Markets, Inc., et al.* (14-cv-2811-JMF) (filed April 18, 2014), which is pending before Judge Furman. *City of Providence* has now been consolidated with three other cases pending before Judge Furman: *American European Insurance, et al. v. Bats Global Markets Inc., et al.*, 14-cv-3133-JMF (filed May 2, 2014); *Harel Insurance Co., Ltd. et al. v. BATS Global Markets Inc., et al.*, 14-cv-3608-JMF (filed May 20, 2014); and *Flynn v. Bank of Am. Corp. et al.*, 14-cv-4321-JMF (filed June 13, 2014) (collectively, the “*Providence Actions*”).

After three of the four *Providence Actions* were filed, an individual plaintiff filed three additional putative class action complaints, which have been assigned to Judge Forrest: *Lanier v. BATS Exchange, Inc. et al.*, 14-cv-3745-KBF (filed May 23, 2014); *Lanier v. BATS Exchange, Inc. et al.*, 14-cv-3865-KBF (filed May 30, 2014); and *Lanier v. BATS Exchange, Inc. et al.*, 14-cv-3866-KBF (filed May 30, 2014) (collectively, the “*Lanier Actions*”).

Judge Furman recently consolidated the *Providence Actions*, and appointed lead plaintiffs and lead counsel. (See July 2, 2014 Order, 14-cv-2811-JMF, ECF No. 209.) Plaintiffs have until September 2, 2014 to either amend the complaint or inform the defendants and the Court that they intend to rely on their previously-filed complaint. In the *Lanier Actions*, Judge Forrest has scheduled an initial pretrial conference for July 25, 2014. (See June 2, 2014 Order, 14-cv-3745-KBF, ECF. No. 4.)

***The Allegations in the Complaints.***

The *Providence Actions*: Plaintiffs filed several putative class action complaints based on alleged violations of Sections 10(b), 6(b), and 20A of the Exchange Act. Plaintiffs brought suit against sixteen “national securities exchanges” (Compl. ¶¶ 19-33, *City of Providence, Rhode Island, et al. v. BATS Global Markets, Inc., et al.*, 14-cv-2811-JMF) (the “Exchange Defendants”) and a defendant class of “all financial firms,” allegedly represented by twenty-six

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<sup>1</sup> The defendants are each prepared to express their views in greater detail as to whether the cases should or should not be deemed to be related if the Court so desires.

named brokerage and high-frequency trading firms (*id.* ¶¶ 34-59). Plaintiffs allege the existence of a fraudulent scheme to manipulate the U.S. stock markets and include allegations related to high-frequency trading practices and the dissemination of market data.

According to Plaintiffs, Defendants “participated in the scheme and wrongful course of business complained herein whereby certain market participants were provided with material, non-public information so that those market participants could use the informational advantage obtained to manipulate the U.S. securities market to the detriment of Plaintiff and the Plaintiff Class.” (*Id.* ¶ 3.) As to the Exchange Defendants in particular, Plaintiffs allege that, throughout the class period, they “accepted kickback payments from the [high-frequency traders] in exchange for agreeing to situate [their] servers on or in close proximity to the Exchange Defendants’ own order matching servers (‘co-location’) in order to create informational asymmetries and otherwise rig the market” to the high-frequency traders’ advantage. (*Id.* ¶ 8.)

The Lanier Actions: Plaintiff filed three putative class action complaints against only the Exchange Defendants alleging breach of contract, as well as several equitable claims, including unjust enrichment and the imposition of a constructive trust. The *Lanier* Actions are brought on behalf of all persons who entered into “Subscriber Contracts” to receive data from the Exchange Defendants and allege that the Exchange Defendants breached both those contracts and their obligations under the national market system created by Congress and the Securities and Exchange Commission. (Compl. ¶¶ 1-2, 42, 55-64, 78-87, *Harold R. Lanier, et al. v. BATS Exchange, Inc., et al.*, 14 Civ. 3745.) Thus, plaintiff’s allegations relate to the dissemination of market data. Lanier alleges that the Exchange Defendants provided preferential access to market data by selling rights to have private feeds to market data and by “co-location services . . . whereby the Exchange Defendants lease server space” to allow the preferred customers faster access. (*Id.* ¶¶ 65–67.) The *Lanier* complaint purports to explain “how and why the Exchange Defendants provide faster access to market data,” and why this faster access allegedly “deprived Subscribers of the benefit of their Contracts and constitute a breach of those Contracts.” (*Id.* ¶ 16.)

Counsel file this statement pursuant to their obligation to notify the Court of facts that may be potentially relevant to the determination of when related cases have been filed. *See* S.D.N.Y. Local Rule 1.6.



Dated: July 22, 2014

Respectfully submitted,

/s/ Douglas R. Cox

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